

APPEAL NO. 033009
FILED JANUARY 5, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 15, 2003. The hearing officer determined that the compensable injury of _____, does not include pseudoarthrosis at C5-6, C-7 radiculopathy, hypertrophic changes, and/or cervical disc pathology.

The appellant (claimant) appealed, principally on sufficiency of the evidence grounds, asserting that the claimant's treating doctor's opinion should be given greater weight than the respondent's (carrier) peer review doctor. The carrier responded, urging affirmance.

DECISION

Affirmed.

The claimant, a registered nurse who uses a motorized scooter due to infant polio, sustained a compensable injury on _____, when her scooter tipped over and the claimant fell on her left side. It is undisputed that the claimant had had a cervical spinal fusion at C5-C6 in 1999 due to degenerative problems related to the claimant's polio. The parties stipulated that the claimant sustained a compensable injury on _____. The carrier accepted liability for a cervical soft tissue "muscle strain/sprain, possible contusion" injury. At issue is whether the complained-of conditions were caused by the _____, fall or were degenerative changes associated with the 1999 failed fusion. There were conflicting medical opinions with the treating doctor's report attributing causation to the compensable injury and the carrier's peer review doctor testifying otherwise.

The testimony and medical evidence were in conflict in regard to the disputed issue and the evidence was sufficient to support the determination of the hearing officer. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Gary L. Kilgore
Appeals Judge